

**REMARKS**

**I. Status of Application**

Claims 1-28 and 34-43 are all the claims pending in the application. Claims 29-33 are withdrawn from consideration as being drawn to a non-elected invention. Claims 1-25, 34, 36, 37, 40 and 42 are allowed. Claims 26-28, 35, 38-39, 41 and 43 presently stand rejected.

**II. Allowable Subject Matter**

The Examiner has indicated that claims 1-25, 34, 36, 37, 40 and 42 are allowed.

**III. Claim Rejections Under 35 U.S.C. § 101**

Claims 35, 38-39, 41 and 43 are rejected under 35 U.S.C. §101 as allegedly not falling within one of the four statutory categories of invention. Applicant respectfully traverses these rejections.

Nevertheless, without conceding to the merits of the Examiner's rejections, claims 35, 38-39, 41 and 43 have been amended, as set forth above. Applicant respectfully submits that amended claims 35, 38-39, 41 and 43 are directed to patentable subject matter *at least* because these claims positively tie to another statutory category that accomplishes the claimed methods (i.e., to respective devices). Accordingly, Applicant respectfully submits that claims 35, 38-39, 41 and 43 satisfy the requirements of 35 U.S.C. §101 for *at least* these reasons and requests that the Examiner withdraw these rejections.

**IV. Claim Rejections Under 35 U.S.C. § 112 – First Paragraph**

The Examiner has rejected claims 35, 38-39, 41 and 43 under 35 U.S.C. §112, first paragraph, alleging that current case law requires such rejections if a rejection under 35 U.S.C.

§101 is given. Applicant respectfully traverses these rejections. Nevertheless, since amended claims 35, 38-39, 41 and 43 satisfy the requirements of 35 U.S.C. §101 for *at least* the reasons discussed above, Applicant respectfully submits that the rejections of claims 35, 38-39, 41 and 43 under 35 U.S.C. §112, first paragraph, should be withdrawn for *at least* the above reasons.

**V. Claim Rejections Under 35 U.S.C. § 112 – Second Paragraph**

The Examiner has rejected claims 26-28 under 35 U.S.C. §112, second paragraph, alleging that insufficient antecedent basis is provided in the claim for the recitation “a program segment.” Applicant respectfully traverses these rejections.

As an initial matter, Applicant notes that claims 26-27 do not include the recitation “a program segment” and, therefore, the Examiner’s rejection of claims 26-27 are improper for *at least* these reasons.

Moreover, without conceding to the merits of the Examiner’s rejections, claim 28 has been amended, as set forth above, thereby rendering the Examiner’s rejections moot.

**VI. Claim Rejections Under 35 U.S.C. § 102**

Claim 35 is rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Kato (U.S. Patent No. 7,059,785). Applicant respectfully traverses these rejections.

The inventors of present application are listed as Junya Yada and Takashi Kato (*see e.g.*, Declaration filed on July 29, 2004). Similarly, the inventors of the cited Kato reference (U.S. Patent No. 7,059,785) are listed as Takashi Kato and Junya Yada. That is, the inventors listed for the present application are the same as the inventors listed for the cited Kato reference (U.S.

Patent No. 7,059,785). Therefore, the cited Kato reference (U.S. Patent No. 7,059,785) is not by another and does not qualify as prior art under 35 U.S.C. §102(e).

Thus, the Examiner's rejection of claim 35 is improper for *at least* these reasons and Applicant respectfully requests that the Examiner withdraw this rejection.

## VII. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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